



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,996	06/12/2000	Robert P Cucinotta	17137-000410US	4727

7590 12/15/2003

Kevin T LeMond
Townsend and Townsend and Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/591,996

Applicant(s)

CUCINOTTA ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Claims 1-18 are pending.

Drawings

2. The proposed drawing corrections were received on September 11, 2003. These drawings are not acceptable. Applicant's attempted corrections are viewed as a bona-fide good faith attempt. However, Applicant does not illustrate a plethora of items from the claims, e.g. claim 1 -- identifying an account to a terminal, entering a personal identification number into a terminal, requesting money or an item of value based upon the account via a first/second type of transaction, forwarding a denial to a processor, making an approval of a second type of transaction, forwarding approval to a processor and instructing a money location to provide money or an item of value to an account-holder. Correction of these and other features recited but not illustrated in the other claims is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 5, "the specific account" lacks antecedent basis. Also, it is not clear as to which account is being referenced.

Applicant's REMARKS have been reviewed regarding the previous Office Action and are convincing regarding claims 1-10 and 18.

Claim Rejections - 35 USC § 103

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burbank. Burbank in "Despite critics, new ATMs roll in" discloses an ATM that may be used with a point of sale (POS) network. An account holder may be denied access in a first transaction to an item of value, e.g. money from a checking account, and resubmit a second POS transaction in order to obtain an item of value, e.g. money. Burbank discloses a person may be involved in the process if desired. Burbank does not specifically disclose a processor. However, to have provided a processor to execute the transaction disclosed by Burbank would have been obvious to one of ordinary skill in the art. Doing such would have used well known technology used in such an environment.

Official Notice is taken that using or not using a personal identification number (PIN) associated with POS transactions is common knowledge in the art. Also, the other dependent claim limitations are deemed well within the purview of one of ordinary skill in the art in view of Burbank. To have done such would have been obvious to one of ordinary skill in the art. Doing such would implement common knowledge to obtain cash.

Applicant's REMARKS regarding the present application being a continuation of previous US Patent Application Serial Number 09/007,740, now US Patent No. 6,081,792, is noted. However, Applicant in the present Application has not requested priority to this previous application. As is, Applicant does not argue the merits of Burbank. Thus, Burbank is deemed proper prior art and the rejection is sustained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


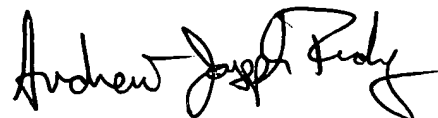
Art Unit: 3627

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Richard Chilcot
Supervisory Patent Examiner
Technology Center 2639

